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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,946	01/07/2002	James H. Wolfston JR.	C064	4902
25784	7590	08/03/2009		
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EXAMINER				
OYEBISI, OJO O				
ART UNIT		PAPER NUMBER		
3696				
MAIL DATE		DELIVERY MODE		
08/03/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/041,946

**Applicant(s)**

WOLFSTON, JAMES H.

**Examiner**

OJO O. OYEBISI

**Art Unit**

3696

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 14-48 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

In the amendment filed on 05/29/09, the following have occurred: claims 14-32 have been amended, claims 36-48 have been added, claims 1-13 have been cancelled, and claims 14-48 are currently pending. The language of the newly amended claims as well as the newly added claims has introduced divergent scope and utility in to the claimed subject matter, and thus has necessitated the restriction requirement set forth in this office action.

#### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims **14-17**, drawn to a method of financing transactions between merchants and payors, comprising: accepting money to be pooled in a fund; receiving an electronic transfer of funds from the unrelated third party, classified in class 705, subclass 40.
  - II. Claims **18-35, and 47-48**, drawn to a method of brokering transactions between payors and merchants, comprising: presenting to a payor, in response to a transaction between the payor and a merchant, a request to select an account at a third party biller to which to charge a transaction amount; requesting authorization of the charge from the selected third party biller by electronically communicating data across a computer network indicating the identity of the payor and the transaction amount;..... triggering the selected third party biller to bill the payor, classified in class 705, subclass 39.

- III. Claims **36-46**, drawn to a method of facilitating payment between a payor and a merchant comprising: changing the payor's account status to indicate that the transaction amount has been paid, classified in class 705, subclass 38.

2. The inventions are distinct, each from the other because of the following reasons: Inventions I, II, and III are related as sub combinations disclosed as usable together in a single combination. The sub combinations are distinct from each other if they are shown to be separately usable.

- In the instant case, invention I relates to a method of financing transactions between merchants and payors, comprising: **accepting money to be pooled in a fund;....receiving an electronic transfer of funds from the unrelated third party**, whereas invention II has a different scope and utility of **triggering the selected third party biller to bill the payor**. Hence invention I has a different utility and scope than invention II.
- Invention II relates to a method of brokering transactions between payors and merchants, comprising: triggering the selected third party biller to bill the payor, whereas invention III a divergent scope and utility of changing the payor's account status to indicate that the transaction amount has been paid. Hence invention II has a different utility and scope than invention III.

- Invention I relates to a method of financing transactions between merchants and payors, comprising: **accepting money to be pooled in a fund;....receiving an electronic transfer of funds from the unrelated third party**, whereas invention III a divergent scope and utility of changing the payor's account status to indicate that the transaction amount has been paid. Hence invention I has a different utility and scope than invention III.

Because these inventions are distinct for the reasons given above and the search required for one group is different from the other group. Restriction for examination purposes as indicated is proper.

3. Applicants are advised that reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OJO O. OYEBISI whose telephone number is (571)272-8298. The examiner can normally be reached on 8:30A.M-5:30P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571)272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/OJO O OYEBISI/

Examiner, Art Unit 3696